

U.S. Appln. No. 10/005,928

Page 4

### REMARKS/ARGUMENTS

Claims 21-22 have been rejected under 35 USC 112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter with applicants regard as the invention. More specifically, the Examiner has objected to the recited limitation "a fuel cell stack" in line 9 of claim 21. Applicant has amended claim 21 in a manner that is believed to overcome the rejection and withdrawal of the same is respectfully requested.

Claims 21-22 have been rejected under 35 USC 103 as being unpatentable over Sugita et al., U.S. Patent No. 4,820,594 in view of La Pierre et al. U.S. Patent No. 6,348,278. However, the objection improperly ignores claimed limitations. The Examiner's attention is respectfully directed to claim 21 which recites "cooling the fuel cell stack during post-start up operations and using waste heat generated by the fuel cell stack to produce shaft work." The Examiner's attention is respectfully directed to Sugita et al. at column 4, lines 10-11, which indicates that the reformer 101 operates at a temperature of about 800 degrees Celsius. The Examiner's attention is also respectfully directed to column 4, lines 30-32, which indicates that the fuel cell is operated at 650 degrees Celsius. As such, the material that the Examiner has identified as the "cooling fluid" actually would heat the fuel cell in post-start up operations and, therefore, does not suggest independent claim 21 which recites "cooling the fuel cell stack during post-start up operations and using waste heat generated by the fuel cell stack to produce shaft work." The addition of La Pierre et al. does not overcome the deficiencies in the teaching of Sugita et al. No prima facie case of obviousness can be established with respect to Claim 21 in view of the references relied by the Examiner.

With respect to Claim 22, the references do not suggest "heating the cooling fluid with a second heat source to change the liquid to a gas, and immediately thereafter expanding the heated cooling fluid in an expander to produce shaft work". Support for the amended language is shown in applicant's Figure 1. The Examiner's attention is

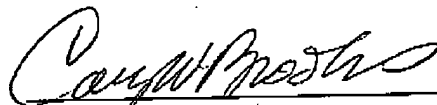
U.S. Appln. No. 10/005,928  
Page 5

respectfully directed to Figure 1 of Sugita et al. which teaches sending the outlet from the waste heat boiler 120 to the reformer 101 and not "immediately thereafter expanding the heated cooling fluid in an expander to produce shaft work" as required by dependent Claim 22. The addition of La Pierre et al. does not overcome the limited teaching of Sugita et al. No prima facie case of obviousness can be established with respect to Claim 22 in view of the references relied on by the Examiner.

With respect to the rejection of claims 21-22 under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 1 and 3 of U.S. Patent No. 6,365,289, Applicants have submitted herewith a terminal disclaimer over the same patent. It is believed that the terminal disclaimer is sufficient to remove the rejection and withdrawal of the same is respectfully requested.

In view of the above amendments and remarks, applicants respectfully request reconsideration and allowance of the claims now in the case.

Respectfully submitted,



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